
The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Riley Boudreaux.

DIGEST

Proposed law creates the Competitive Projects Payroll Incentive Program which provides a "qualified business" a contract to receive the following rebates under a 5-year contract, renewable for another 5 years:

1. A rebate of up to 15% of "new payroll" determined to be eligible for such rebate by the secretary of the Department of Economic Development [DED] if the number of new jobs and amount of "new payroll" required to be created and maintained, along with any other performance obligations under the contract are met.

"New payroll" is defined as payment by the business to its employees for new jobs, exclusive of benefits and defined as wages under Louisiana Employment Security Law (La. R.S. 23:1472(20)).

2. The same rebates of state and local sales and use tax rebates authorized for Enterprise Zone-eligible business purchases of material used in the construction or improvement of, or addition to, a building and machinery and equipment used in the enterprise as provided in R.S. 51:1787 for the qualified business' expenditures on its facility at the facility or facilities designated by the department in the contract.

Or

In lieu of the sales and use tax rebate, a "project facility expense rebate" equal to one and one-half percent of the amount of qualified business' "qualified expenditures" on the facility or facilities designated by the department in the contract.

"Qualified expenditures" is defined as amounts classified as capital expenditures for federal income tax purposes plus certain exclusions from capitalization in IRC §263(a)(1)(A) - (L), minus the capitalized cost or leases of land, capitalized interest, capitalized costs of machinery and equipment, and the capitalized cost for the purchase of an existing building. Only the capital expenditures for rehabilitation of an existing building are considered "qualified expenditures". Additionally, qualified expenditures may be increased to the extent the qualified business' capitalized basis is properly reduced by claiming a federal credit.

Proposed law defines a "qualified business" eligible for the rebate contracts as businesses meeting all of the following criteria:

1. Businesses that the DED determines will have the following activities at its Louisiana site: corporate headquarters; clean technology; next-generation automotive; aerospace;

destination healthcare; research and development operations; pharmaceutical manufacturing; renewable energy; or other business sectors targeted by the Secretary as a focus of the department's economic development efforts.

2. Businesses which have, or will have within one year, sales of at least 50% of its total sales to out-of-state customers or buyers, to in-state customers or buyers if the product or service is resold by the purchaser to an out-of-state customer or buyer for ultimate use, to the federal government or any combination thereof. The secretary of DED, at his discretion, may include sales of affiliates of the business in determining the 50% sale requirement
3. Businesses which offer, or will offer within 90 days of the effective date of qualifying for the rebates a "basic health benefits plan" to the individuals it employs. "Basic health benefits plan" is defined in the same manner as for Enterprise Zone employers, meaning coverage for basic hospital care, physician care, and health care which is determined by the DED to have a value of at least \$1.25 per hour and which is the same coverage as is provided to employees employed in a bona fide executive, administrative, or professional capacity who are exempt from the minimum wage and maximum hour requirements.

Unless a business is providing at least 25 new "headquarter jobs" or "shared service center jobs", the following businesses, are not eligible for rebates: retail sales, real estate, professional services, gaming or gambling, natural resource extraction or exploration, financial services or venture capital funds.

"Headquarter jobs" are defined as jobs of full time employees that are executive, administrative, or professional jobs based at a principal or regional office located in Louisiana, in which are located the principal or regional executive officers normally constituting a principal or regional headquarters providing corporate governance. Such principal or regional executive officers include but are not limited to chief executive officer, chief operating officer, and other senior level officers or appropriate regional equivalents.

"Shared services center jobs" are defined as jobs of full time employees residing in the state which are based at a business located in Louisiana that performs specific corporate operational tasks for the business, its affiliates or customers, such as accounting, human resources, payroll, or purchasing.

Proposed law requires the qualified business to apply to DED after being invited to participate by the secretary of DED.

DED must determine if the applicant is an eligible "qualified business", that participation in the program is needed in a highly competitive site selection situation to encourage the business to locate or expand in the state, and that securing the project will result in a significant positive economic benefit to the state.

Proposed law requires DED to propose a contract for the applicant to the Board of Commerce and Industry. Upon the Board's approval, the secretary must execute the contract. The contract must provide a rebate to qualified businesses based upon new payroll. The contract will have an initial term of up to 5 years. It may be renewed for an additional 5 years provided that the qualified business has complied with all the terms of the contract and has complied with the provisions of the proposed law.

The contract shall provide for a rebate to the qualified business based upon new payroll, and shall include the following provisions:

1. The percentage of new payroll eligible for rebate, up to a maximum of 15%.
2. The maximum amount of new payroll eligible for rebate.
3. The number of new jobs and amount of new payroll required to be created and maintained, and any other performance obligations required to be met in order to remain qualified for participation in the program.
4. Designation of the facility or facilities eligible for participation in the program.
5. Monitoring of performance and consequences for failure to perform and other contract violations.
6. An initial term of the contract, which may be up to five years, and any renewal term available at the discretion of the secretary, which may be up to an additional five years.

Proposed law requires a qualified business to file applications for rebates with DED to show its continued eligibility for the rebates. It may be subjected to a limited audit by DED to verify its eligibility.

Proposed law requires the qualified business to file an application for an annual rebate with the DED, which contains a sworn statement by a duly authorized officer of the qualified business that the qualified business had complied with the contract and the proposed law during the fiscal year. Upon approval of the application for the annual rebate, the application is forwarded to the Department of Revenue for payment. The rebate is made from the current collections of the income and franchise tax.

Proposed law prohibits a taxpayer who participates in this program from receiving any other incentive administered by DED for any expenditures for which the taxpayer has received a credit pursuant to this program.

Proposed law allows DED to promulgate rules and regulations necessary for the implementation of the program. Any such rules or regulations promulgated shall be subject to oversight by the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs only.

Effective July 1, 2012.

(Adds R.S. 51:3111)